

Honorable Marc Barreca  
Chapter 13  
Hearing Location: ZoomGov  
Hearing Date: May 24, 2023  
Hearing Time: 9:00 AM  
Response Date: May 17, 2023

UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

In re: : Chapter 13 Proceeding  
: :  
LORIN EDWIN MASSINGALE, : Case No.: 20-12628-MLB  
: :  
Debtor(s). : REPLY TO DEBTOR'S  
: OBJECTION TO ATTORNEY  
: APPLICATION FOR COMPENSATION  
: :  
: :

**COMES NOW** Steven Hathaway in reply to the Debtor's Objection to  
Attorney's Application for Compensation.

1. Debtor's memory is incorrect. Debtor did not hire Mr. Hathaway based  
off information on his website. He hired Mr. Hathaway because nobody else  
would help him. Debtor came to Mr. Hathaway's office only after going to  
Melissa Huelsman, Jim Sturdevant, and Paul Richmond to whom he had paid a  
combined \$10,000 for a couple hours of work. Debtor told Mr. Hathaway it was  
Mr. Richmond who referred him because he was unable to help him.

2. Home Equity Line of Credit. Debtor took out his HELOC on November  
21, 1997, in the amount of \$100,500. The balance he owed at the time of his  
bankruptcy filing was \$150,689.38 which included arrears of \$67,326.39. Some

1 twenty-three years after Debtor took out his HELOC he owed approximately  
2 \$50,000 more than when he started.

3 3. Home was scheduled for Foreclosure Sale. When Debtor met with Mr.  
4 Hathaway on October 8, 2020, his house was scheduled for a foreclosure sale on  
5 October 30, 2020, at 10:00 AM at main entrance Skagit County Courthouse in  
6 Mount Vernon, WA. If Mr. Hathaway had not agreed to help, his home would  
7 have been sold on October 30, 2020. A copy of the Notice of Trustee Sale is  
8 attached.  
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12 4. Chapter 13 Bankruptcy. Counsel filed a Chapter 13 bankruptcy for  
13 Debtor on October 19, 2020, for \$1,500 down. The bankruptcy filing stopped the  
14 foreclosure sale of his home.  
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16 5. HELOC in Arrears. As set forth in the Notice of Foreclosure, at the time  
17 of Debtor's bankruptcy filing he was \$67,326.39 behind on his HELOC payments,  
18 including costs, fees, etc.  
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20 6. Variable Interest Rate. Debtor's HELOC has a variable interest rate that  
21 caps out at 18%. The interest rate is currently 10%. Debtor's HELOC is a  
22 predatory loan. Debtor should have paid it off years ago. Debtor is squandering  
23 his opportunity to bring the HELOC arrearage current with the settlement amount  
24 and/or through his Chapter 13.  
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1           7. Settlement Agreement. The litigation engaged on behalf of the Debtor  
2 took a phenomenal amount of work. The settlement amounts are sufficient to pay  
3 all Debtor's attorney fees and a significant amount of his HELOC arrears. His  
4 Chapter 13 could have been completed and closed over two months ago at which  
5 point Debtor could have moved on.  
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7           8. HELOC Arrears of \$67,326.39. During the 2 ½ years Debtor has been in  
8 Chapter 13 nothing has been paid toward the \$67,326.39 he was behind on his  
9 HELOC when this case was filed. Debtor has only been making current HELOC  
10 payments. At the time he filed his bankruptcy the principal owing on his HELOC  
11 was about \$95,000. During the twenty-three years since he took out his HELOC  
12 he had paid down the principal only \$5,000. During his bankruptcy the principal  
13 has been paid down to approximately \$77,000 – about \$18,000. When Debtor  
14 pays the \$67,326.39 in HELOC arrears the balance of his mortgage would further  
15 go down because some of the arrearages are principal.  
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20           9. Lawsuit against Caliber, U.S. Bank, and Rushmore. On March 7, 2021,  
21 an 85 paragraph, six-count lawsuit was filed against US Bank, Caliber Home  
22 Loans, and Rushmore Loan Management Services on Debtor's behalf. On March  
23 3, 2022, the lawsuit was amended. Over the past 2 ½ years counsel has spent  
24 hundreds of hours devoted to representing the Debtor in his adversary proceeding.  
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26 Counsel has reviewed well over 10,000 pages of documents (multiple times), has  
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1 filed numerous legal pleadings including, without limitation, adversary complaint,  
2 amended adversary complaint, responses and replies to two Caliber motions to  
3 dismiss, drafting Caliber interrogatories and requests for production, drafting  
4 Rushmore interrogatories and requests for production, drafting responses to  
5 Caliber interrogatories and requests for production, drafting four motions for  
6 summary judgment – one against Caliber and two against Rushmore, drafting  
7 responses and replies to motions for summary judgment, preparation for Debtor's  
8 deposition, numerous letters, emails, phone calls, multiple court appearances,  
9 mediation preparation and appearance, preparation and attendance at Caliber's  
10 30(b)(6) deposition, preparation for Rushmore's 30(b)(6) deposition, etc. Debtor's  
11 claim that counsel either did not spend much time on his case or should not have  
12 had to spend much time on his case because it was a textbook lawsuit that required  
13 little research, time, and effort is misinformed, at best.  
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19 10. U.S. Bank/Rushmore Settlement. Counsel and Debtor discussed the  
20 settlement with U.S. Bank/Rushmore numerous times. The Debtor knew precisely  
21 what settlement terms were and the pros and cons of settling vs. going to trial.  
22 Debtor authorized the settlement offer which U.S. Bank/Rushmore accepted. After  
23 agreeing to settle Debtor became concerned with the numbers set forth in  
24 Rushmore's payment change notices because they did not make sense to him.  
25 Debtor's confusion regarding the numbers does not mean they are wrong. If  
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Debtor believes the numbers are wrong, he needs to articulate how the numbers are wrong and what the correct numbers should be. He is free to send Rushmore a Qualified Written Request explaining how the numbers are wrong and give them an opportunity to fix them. If Rushmore refuses to fix the numbers, then Debtor can file another lawsuit against them.

11. Fees were Trimmed and also Reduced. When reviewing the time records Counsel significantly trimmed the time spent on each task before the statement was finalized and submitted as an exhibit submitted to the court with the fee application. Counsel then reduced the fees by an additional 30%. The fee application is more than fair given the time spent on the case and the results achieved for the Debtor. In counsel's opinion, the settlement amounts exceed what the Debtor would have received at trial. The fees and costs of preparing for and attending trial would have been significant. The risks associated with going to trial mandated settling with U.S. Bank and Rushmore.

*Date:* 05/19/2023

/s/ Steven C. Hathaway

Steven C. Hathaway, WSBA #24971  
Attorney for Debtor/Defendant

DECLARATION OF SERVICE

THE UNDERSIGNED CERTIFIES UNDER PENALTY OF PERJURY THAT  
ON 05/19/2023 THE UNDERSIGNED CAUSED TO BE DELIVERED EITHER  
BY FIRST CLASS MAIL, LEGAL MESSENGER OR ELECTRONICALLY A  
COPY OF THIS REPLY TO THE PARTIES SET FORTH IN THE ATTACHED  
BANKRUPTCY COURT MAILING MATRIX.

*Dated:* 05/19/2023

/s/ Simone M. Hathaway

Simone M. Hathaway, Legal Assistant